

Previous references.

File No. 230-11

1911-12

Serial Nos. 1-2

bowts

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-2

Part B. for May 1912

SUBJECT.

Question of the subordination of
the Pub: Prosecutor to the Dist: Magistrate.

From Mr Kaur - no: 287 of 22.2.12
1) Requests to be enlightened about the

above matter -

To Mr Kaur -

2) 28 W of Mr District -

9) Register Chief Court -

10) Pub - Pro: of Bangalore, Mysore, Shimoga
no: 33 22-33 of 10.5.12

G. R. S. 58

Directs that the Public Pro: is
not a subordinate of the Dist Magistrate in
the sense of a Govt servant & states that the Pub:
Pro: should intimate the time of his tour
programme to bring about as necessary -

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

Ct File No. 230-11

FILE HEADING.

Question of the Subordination of the Public
Prosecutor to the District Magistrate

From

The District Magistrate of Radur

No. 287

Dated 22-2-1912. Received 27-2-12.

Diary No. 2280

Enclos. one Spare Copies.

Serial No.

BRIEF ABSTRACT OF LETTER.

Requests to be instructed whether the Public
Prosecutor is subordinate to the District Magistrate
or not and whether official Courtesy as well as
duty do not require that he should call on the
District Magistrate when he goes to any District
Head Quarters to conduct prosecutions in Sessions
Cases

NOTES AND ORDERS.

¶ Subd There appears to be no provision in
the Code of Criminal Procedure or in the
Rules passed by Govt in the matter of the
duties of the Public Prosecutors making
them subordinate to the District Magistrate

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No.

in the way the other magistrates in the District are subordinate to him under Section 17 of the Code. But that is no reason why with a view to the speedy disposal of important and difficult cases instructions may not be sought at the hands of the Dy Commr, as such personal interviews would seem to facilitate the work of prosecution.

Subd for orders.

Dec. 122

1-3-12
ND (25)
1/3/12

✓ The Public Prosecutor is an officer appointed by the Govt under Sec 492 of the Cr. P. Code. His duties are to Conduct the prosecution in Sessions Cases and ~~in all cases~~ ^{like the above} to Conduct such other Criminal Cases as he may be asked to by the Dist Magr. He has also to advise the Dist Magr in all Criminal Cases whenever his advice is sought.

[G.O. defining the duties etc of Public Prosecutors is pending. Vide F&W]

3 The fact of these duties is laid on him by the Cr. P. Code

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and the others by the Govt. that appoint him. Besides these functions he is not Compellable by the Dist Magistrate or by the Govt. to discharge any other

4 The Salary drawn is more or less of the nature of a remuneration for work done, as he does not surrender his whole time for the service of Govt. He is usually employed for a fixed time and is not entitled to any pension.

5 In the discharge of his duties in Court he is instructed by the Police Officer.

6 These Considerations seem to show that the Public Prosecutor is not subordinate to the Dist Magistrate in the sense in which one Officer of Govt. is subordinate to another. Mr. Gurn Rau was therefore under no obligation to go and see the Dist Magistrate. Of course if the Dist Magistrate has any special instructions to give personally, no public prosecutor will probably decline to see the Dist Magistrate.

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No.

if he is made known of the St. Mag's
desire. In the present case there is
nothing to show that Mr. Gurnam
would not have seen the St. Mag's
if he had been informed that the St.
Mag's expected a visit from him.

7 When there is no duty ^{cast} on
~~the part of the St. Mag's~~ Public prosecutor
to go and see the St. Mag's, it is
perhaps ~~be~~ difficult to enforce it
on the ground of official Courtesy —
a matter which should be left more
or less to the good sense of each
Officer.

8 The fact that the St. Mag's
County signs the travelling
allowance ~~bill~~ bills of the Public prosecutor
does not seem to make any difference
in the matter.

14/3/12 

9
Secy I agree generally with the view
taken in the above note, but
I think it is only right & necessary
that the Public Prosecutor should

Serial
No.

Call on the D^r Magle as a matter
of official courtesy & at any rate
write him informing him of his arrival,
so that the D^r Magle can communicate
with him if necessary.

176

1872nd Drawing)483
2678/2
12.

This is one of those questions
which hardly deserve to be raised,
as the answer that is the most
proper to be given may not be
the one most expedient. The
distance between the D^r M & the
P. Pr^{ty} Officially is so wide that
no Public Pr^{ty} would consider
it beneath his dignity to call on
the D. M. If Mr. Gurn Ram did
not do so, I cannot ^{but} think that it
was due only to a feeling that he
had no real business to do
& that ~~he~~ he need not waste
the D. M.'s & his own time. Per-
haps the reply he gave was
moulded by the letter written to
him which is not before us.

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No.

11. The Public Prosecutor Can be said to be subordinate to the D.M. only in a very partial way and I do not think that an order sh^d be passed that he should call on him whenever he goes or write to him

12. I think we may say that Gov^t do not consider it necessary to lay down that a P.P. should invariably call on the D.M. whenever he goes to the D^t h^d q^rs, but Gov^t have no doubt that he will do so whenever there is any business or as a matter of courtesy

[Signature]
28/3/12
H₂
H₂

469
30.3.12

Submitted to the Dewan

29/3/12 L⁽⁵⁸⁾ 3. The question having been raised it has to be replied with — I w^d propose the draft now for the Comd^r of

General and Revenue
Secretariat.

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No.

Commutis - *[Signature]*
13/2/12

Secy to Govt 2nd C

Chy
16/4/12

I believe such
matters are left to
be decided by ordinary good
sense of the officers concerned
and that it is not expedient
that they should all be dragged
to the arena of positive rules.
If however it is considered
worth while to issue an express
order on such a subject, the draft
is all right & may be issued

18/4/12

[Signature]

[Signature]
2nd C

Chy
19/4/12

SA

9/11
25/24/12

NOTE—Contn. sheet.

Issue) may issue.
[Signature]
20/4

Dewan

Chy
20/4/12

SA 24/5/12

SA 28/4/12

G. R. S. 12]

General and Revenue
Secretariat.

Ch File No. 230 of 1911.

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16 Issue

CSB

4/5/12

B

10/6/12

2

To the D.M., Kadur, the D.M.s of other districts
the Registrar, Chief Court & the Public Prosecutors
of the Bangalore, Mysore & Shimoga Divisions
J 3822-33 of 10-5-1912
States that the Govt. think that it will be in
the interests of public work if the Public Prosecutor
intimate beforehand to all the District magistrates
of the Division his tour programme whenever he
has to leave the headquarters of the Division
for prosecuting cases before the Sessions Court

III/AM 27.2.12
DIARY No. 2230
1911-1912
From The District Magistrate
To The Secretary to the
Govt. of Mysore
Dated Rvr. & Gen. Depar'to
22
Despatched 26 } Feb. 1912
Received
General No. 287
No.

Enclosure No. One

Requests to be in-
formed whether Public
Prosecutor is a sub-
ordinate to the District
Magistrate.

Office of the Deputy Commissioner,
&
District Magistrate, Kadur District,
Dated the 22nd February, 1912.

From

K.R.Srinivasa Iyengar, Esquire, M.A.,
Deputy Commissioner,
Kadur District.

To

C.S.Palasundaram Iyer, Esquire, B.A.,
Offg. Secretary to the Government of Mysore,
General and Revenue Departments.

Sir,

I have the honor to state that Mr. B.Guru Rao, Public Prosecutor, Shimoga Division, attended the Sessions Court at Chikmagalur in September last to conduct the prosecution in some Sessions cases. Though I was then at Head Quarters, he did not see me to consult me or take my instructions regarding the cases he was prosecuting. On receipt of his Travelling Allowance bill for the month for countersignature, I returned it to him with a request to state why he did not, knowing that I was in Head Quarters, see me with a view to take my instructions about the cases committed to the Sessions. In reply he sent the has[^] enclosed the letter in which he says that there does not seem to be any rule or standing order making it obligatory for him to see me as a subordinate does, whenever he goes to Chikmagalur for the Sessions.



2. From the words which I have underlined above, it will be seen that Mr. Guru Rao considers that he is not subordinate to the Deputy Commissioner and District Magistrate. From a consideration of the nature of his duties and the fact that his Travelling Allowance Bills have to be countersigned by the District Magistrate, I am inclined to think that he should be deemed to be a subordinate of the District Magistrate, so far as his duties as Public Prosecutor are concerned. I should think that official courtesy, if not duty, requires that when the Public Prosecutor goes to a District for Sessions trials, he must call on and see the District Magistrate if he happens to be at Headquarters with a view to receive his instructions, if any, about the cases coming up before the Sessions Court. Mr. Guru Rao appears, however, to entertain a different opinion and to think that it is ^{for} the District Magistrate to get information of his arrival and then send word to him, if he desires to see him.

3. In the circumstances, I request that you will kindly favor me with instructions on the points raised in the letter of Mr. Guru Rao-namely,

(1) whether the Public Prosecutor is subordinate to the District Magistrate or not ?

(2) whether official courtesy as well as duty do not
on
require that he should call the District Magistrate when he
goes

34

Letter No.12 dated the 18th November 1911, from Mr. Guru
Rao, Public Prosecutor, Shimoga Division, to the District Magis-
trate, Kadur District.

With reference to your docket No.816 dated 3rd November -
1911, returning my travelling allowance bill for the month of
September 1911, I have the honor to state that there could be no
doubt as to my having been at Chikmagalur during the Kadur --
Sessions held in September last and conducted sessions. I regret
that your docket is so worded as to require an explanation from
me for my not having seen you during my stay at Chikmagalur.
There does not seem to be any rule or standing order, making it
obligatory on my part to see you, as a subordinate does, whenever
I go to Chikmagalur for sessions. If you had desired me to see
you I would not have failed to do so. I may add that the District
Superintendent of Police attended the Sessions and gave me the
necessary instructions as usual.

" Copy "



District Magistrate,

Kadur District.

23.2.1912.

75

2230
4/5

6

36/ps
5

G.R.S. 28]

File No. 230-1/

Serial No. 2

Diary No. of letter replied to

Proceedings of the Government of His Highness
the Maharaja of Mysore.

GENERAL AND REVENUE
SECRETARIAT.

()

READ—

Letter no 287 dated

, the

19

22th Feb 1912 from the Dist-

Magistrate's Report reporting that

M. B. Gurus Rao Public Prosecutor

Date of issue 10-5-12

Signed by Mr S. H. Srinivasiah

When Mr Dist did not see him

ORDER THEREON. No.

though he was at Head Quarters.
or take instructions regarding the
case he was presenting at the
Chikmagalur Sessions, and requesting
instructions as to whether the

over.

SUBJECT.

22
9/5/12

5

Public Prosecutor is subordinate
to the Dist. Magt and whether offi-
cial Courtesy as well as duty do
not require him to call upon the
Dist. Magt when attending the
Sessions in any district.

Order No. 3322-33 / 1892 1-2 & 10-5-12
1

The Public Prosecutor
is an officer appointed by Govt.
under 1692 Cr. Pr. Code. His
duties are to conduct the
Govt. in Sessions cases and to
conduct such other Criml. cases
as he may be asked to by the Dist
Magt. He has also to advise the
Dist. Magt in all trial cases
whenever his advice is sought.

2 The first of the duties
laid upon him by the Criml.
Pr. Code and the others by the
Govt. that appoint him. Besides
these functions he is not com-
pellable by the Dist. Magt or
by the

GENERAL AND REVENUE
SECRETARIAT.

(Continuation Sheet draft form.)

after Govt. to discharge any
other

3. The salary he draws
is more or less of the nature
of a remuneration for work
done as he does not surrender
his whole time for the service
of Govt. He is usually employed
for a fixed time and is not
entitled to any pension.

4. In the ^{conduct of} ~~discharge of~~
^{Cases} ~~business~~ in Court he is instructed
by the Police Officer.

5. These considerations seem
to show that the Public Prosecutor
is not subordinate to the Dist.
Magistrate in the sense in which
an officer of Govt. is subordinate
to another. Mr. Jinn Rao was
therefore under no obligation
to go and see the Dist. Magistrate.
There is nothing to show that
Mr. Jinn Rao would not
have visited the Dist. Magistrate

if he had been informed that the Dist. Magt. had any special instructions to give personally or otherwise desired a visit from him.

6. When there is no duty laid upon the Public Prosecutor to call upon the Dist. Magt. and when there was apparently no necessity for such a call Govt. deem it inexpedient to say anything on the score of Mutual Courtesy, a matter which Govt. would fain leave more or less to the good sense of each office. The Govt. however think that it will be in the interests of Public work, if the Public Prosecutor intimates before hand to all the Dist. Magts. of the Division, his time programme whenever he has to leave the Headquarters of the Division

G.R.S. 27]

GENERAL AND REVENUE
SECRETARIAT.

(Continuation Sheet draft form.)

13 Apr
Paint

9
for prosecuting cases before
the Sessions Court. The District
Magistrate of the district where
the sessions are held will have
an opportunity afforded him
to have a personal interview
with the Public Prosecutor if
necessary.

SB
4/5/02
Secy

To. The District Magistrate, Koda
All the Dist. Magts.

The Registrar, Chief Court

The Public Prosecutors of
the Bangalore, Mysore &
Shimoga Divisions.

May 12

III—Judl. & Legis. Sec. 2

*Proceedings of the Government of His Highness the Maharaja of Mysore,
Judicial and Legislative (Courts), dated 10th May 1912.*

READ—

Letter No. 287, dated 22nd February 1912, from the District Magistrate of Kadur, reporting that Mr. B. Guru Rao, Public Prosecutor, Shimoga Division, did not see him though he was at headquarters or take instructions regarding the cases he was prosecuting at the Chikmagalur Sessions, and requesting instructions as to whether the Public Prosecutor is subordinate to the District Magistrate and whether official courtesy as well as duty do not require him to call upon the District Magistrate when attending the Sessions in any district.

No. J. 3322-33—CTS. 230-11-2, DATED BANGALORE, 10TH MAY 1912.

ORDER THEREON.—The Public Prosecutor is an officer appointed by Government under Section 492, Criminal Procedure Code. His duties are to conduct the prosecution in Sessions Cases and to conduct such other criminal cases as he may be asked to by the District Magistrate. He has also to advise the District Magistrate in all criminal cases whenever his advice is sought.

2. The first of the duties is laid upon him by the Criminal Procedure Code and the others by the Government that appoint him. Besides these functions, he is not compellable by the District Magistrate or by the Government to discharge any other.

3. The salary he draws is more or less of the nature of a remuneration for work done as he does not surrender his whole time for the service of Government. He is usually employed for a fixed time and is not entitled to any pension.

4. In the conduct of cases in Court he is instructed by the Police officers.

5. These considerations seem to show that the Public Prosecutor is not subordinate to the District Magistrate in the sense in which one officer of Government is subordinate to another. Mr. Guru Rao was therefore under no obligation to go and see the District Magistrate. There is nothing to show that Mr. Guru Rao would not have visited the District Magistrate if he had been informed that the District Magistrate had any special instructions to give personally or otherwise desired a visit from him.

6. When there is no duty cast upon the Public Prosecutor to call upon the District Magistrate and when there was apparently no necessity for such a call, Government deem it inexpedient to say anything on the score of official courtesy, a matter which Government would fain leave more or less to the good sense of each officer. The Government, however, think that it will be in the interests of public work, if the Public Prosecutor intimates beforehand to all the District Magistrates of the Division his tour programme whenever he has to leave the headquarters of the Division for prosecuting cases before the Sessions Court. The District Magistrate of the District where the Sessions are held will have an opportunity afforded him to have a personal interview with the Public Prosecutor, if necessary.

C. S. BALASUNDARAM IYER,
Offg. Secy. to Govt., Gen. & Rev. Depts.

To—The District Magistrate, Kadur.
The District Magistrates of other Districts.
The Registrar, Chief Court of Mysore.
The Public Prosecutors of the Bangalore, Mysore and Shimoga Divisions.

Exd.—c. v.

1911-12

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

JUDICIAL AND LEGISLATIVE
(COURTS)

P R O C E E D I N G S

Dated 10th May 1912

No. $\frac{\text{J. 3322-53}}{\text{Cts. 230-11-2}}$

Passing orders with regard to the relationship between the Public Prosecutors and the District Magistrates.